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6

7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

2:10-CV-0830-LDG (PAL)

12 \$295,897.32 IN UNITED STATES CURRENCY,

13 Defendant.

14 SETTLEMENT AGREEMENT, STIPULATION FOR ENTRY OF JUDGMENT OF  
15 FORFEITURE AS TO JOSEPH AND RITA SCHLAGETER, AND ORDER

16 The United States of America, by and through Daniel G. Bogden, United States Attorney for  
17 the District of Nevada, and Drew Smith, Assistant United States Attorney, and Joseph Schlageter and  
18 Rita Schlageter, by and through their counsel, David Z. Chesnoff and Richard M. Barnett, stipulate  
19 as follows:

20 1. This civil forfeiture action forfeits \$295,897.32 in United States Currency  
21 ("US\$295,897.32") under 31 U.S.C. § 5317(c)(2).

22 2. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to the  
23 abandonment, the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture  
24 of the US\$295,897.32.

25 3. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to forfeit  
26 US\$295,897.32 to the United States.

1           4.     Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to relinquish  
2 all right, title, and interest in the US\$295,897.32.

3           5.     Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive their  
4 right to any abandonment proceedings, any civil administrative forfeiture proceedings, any civil  
5 judicial forfeiture proceedings, or any criminal forfeiture proceedings ("proceedings") concerning the  
6 US\$295,897.32.

7           6.     Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive  
8 service of process of any and all documents filed in this action or any proceedings concerning the  
9 US\$295,897.32 arising from the facts and circumstances of this case.

10          7.     Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive any  
11 further notice to them, their agents, or their attorneys regarding the forfeiture and disposition of the  
12 US\$295,897.32.

13          8.     Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree not to file any  
14 claim, answer, or petition in any proceedings concerning the US\$295,897.32.

15          9.     Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to withdraw  
16 any claims, answers, counterclaims, petitions, or other documents they filed in any proceedings  
17 concerning the US\$295,897.32.

18          10.    Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive the  
19 statute of limitations, the CAFRA requirements, Fed. R. Crim. P. 7(c)(2), 32.2(a), and 32.2(b)(3), Fed.  
20 R. Civ. P. Supp. Rule A, E, and G, and the constitutional due process requirements of any  
21 abandonment proceeding or forfeiture proceeding concerning the US\$295,897.32.

22          11.    Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive their  
23 right to a trial on the forfeiture of the US\$295,897.32.

24          12.    Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to waive (a)  
25 all constitutional, legal, and equitable defenses to, (b) any constitutional or statutory double jeopardy  
26 defense or claim concerning, and (c) any claim or defense under the Eighth Amendment to the United

1 States Constitution, including, but not limited to, any claim or defense of excessive fine in any the  
2 abandonment, the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture  
3 concerning the US\$295,897.32.

4 13. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to the entry of  
5 a Judgment of Forfeiture of the US\$295,897.32 to the United States.

6 14. Joseph Schlageter and Rita Schlageter understand that the forfeiture of the  
7 US\$295,897.32 shall not be treated as satisfaction of any assessment, restitution, fine, cost of  
8 imprisonment, or any other penalty that may be imposed on Joseph Schlageter and Rita Schlageter in  
9 addition to forfeiture.

10 15. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to the  
11 conditions set forth in this Settlement Agreement, Stipulation for Entry of Judgment of Forfeiture, and  
12 Order ("Settlement Agreement").

13 16. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to hold  
14 harmless the United States, the United States Department of Justice, the United States Attorney's  
15 Office for the District of Nevada, the Department of the Treasury, the Internal Revenue Service, their  
16 agencies, their agents, and their employees from any claim made by Joseph Schlageter and Rita  
17 Schlageter, or any third party arising out of the facts and circumstances of this case.

18 17. Joseph Schlageter and Rita Schlageter knowingly and voluntarily release and forever  
19 discharge the United States, the United States Department of Justice, the United States Attorney's  
20 Office for the District of Nevada, the Department of the Treasury, the Internal Revenue Service, their  
21 agencies, their agents, and their employees from any and all claims, rights, or causes of action of any  
22 kind that Joseph Schlageter and Rita Schlageter now have or may hereafter have on account of, or in  
23 any way growing out of, the seizures and the forfeitures of the property in the abandonment, the civil  
24 administrative forfeitures, the civil judicial forfeitures, and the criminal forfeitures.

25 18. Each party acknowledges and warrants that its execution of the Settlement Agreement  
26 is free and is voluntary.

1 19. The Settlement Agreement contains the entire agreement between the parties.

2 20. Except as expressly stated in the Settlement Agreement, no party, officer, agent,  
3 employee, representative, or attorney has made any statement or representation to any other party,  
4 person, or entity regarding any fact relied upon in entering into the Settlement Agreement, and no  
5 party, officer, agent, employee, representative, or attorney relies on such statement or representation  
6 in executing the Settlement Agreement.

7 21. After the property is forfeited in the civil case and the United States District Court has  
8 signed the Settlement Agreement concerning the property, within forty-five days thereafter, the United  
9 States knowingly and voluntarily agrees to release to Joseph Schlageter and Rita Schlageter the sum  
10 of \$220,897.32 less any debt owed to the United States, any agency of the United States, or any debt  
11 in which the United States is authorized to collect, to Joseph Schlageter and Rita Schlageter through  
12 their attorney, David Chesnoff, at Law Offices of Chesnoff & Schonfeld, 520 South Fourth Street, Las  
13 Vegas, Nevada 89101. Joseph Schlageter and Rita Schlageter knowingly and voluntarily agree to fill  
14 out the ACH form and submit it to the United States Attorney's Office so the payment of the  
15 \$220,897.32 is by electronic fund transfer.

16 22. The persons signing the Settlement Agreement warrant and represent that they have  
17 full authority to execute the Settlement Agreement and to bind the persons and/or entities, on whose  
18 behalf they are signing, to the terms of the Settlement Agreement.

19 23. This Settlement Agreement shall be construed and interpreted according to federal  
20 forfeiture law and federal common law. The jurisdiction and the venue for any dispute related to,  
21 and/or arising from, this Settlement Agreement is the unofficial Southern Division of the United States  
22 District Court for the District of Nevada, located in Las Vegas, Nevada.

23 24. Each party shall bear their own attorneys' fees, expenses, costs, and interest.

24 25. This Settlement Agreement shall not be construed more strictly against one party than  
25 against the other merely by virtue of the fact that it may have been prepared primarily by counsel for  
26

one of the parties; it being recognized that both parties have contributed substantially and materially to the preparation of this Settlement Agreement.

IT IS HEREBY CERTIFIED, pursuant to 28 U.S.C. § 2465(a)(2), that there was reasonable cause for the seizure and forfeiture of the \$295,897.32 in United States Currency.

DATED: 5-20-10

DATED: 5/25/10

CHESNOFF & SCHONFELD

DANIEL G. BOGDEN  
United States Attorney

  
DAVID L. CHESNOFF  
Counsel for Joseph and Rita Schlageter

  
DREW SMITH  
Assistant United States Attorney

DATED: MAY 28, 2010

  
RICHARD M. BARNETT  
Counsel for Joseph and Rita Schlageter

DATED: 5-26-10

  
JOSEPH SCHLAGETER

DATED: MAY 22, 2010

  
RITA SCHLAGETER

IT IS SO ORDERED:

  
UNITED STATES DISTRICT JUDGE

DATED: 26 June 2010